* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ RC.REV. 9/2007

ABDUL HAMID ..... Petitioner
Through Mr. T S Upadhyay, Advocate

versus

AHSAN ILAHI & ORS. ..... Respondent
Through Mr. Sanjay Agnihotri with Mr. Arvind Upadhyaya, Advocate

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

O R D E R

% 26.11.2007

CM NO. 12565/2007

It is submitted by learned counsel for the petitioner that the respondent/landlord had filed two separate petitions against the petitioner for eviction under Sections 14 (1) (e) and 14 (1) (h) of the Delhi rent Control Act, 1958. By a common judgment dated 18.10.2006, the Additional Rent Controller passed eviction orders on both the counts. The respondent preferred an appeal before the Rent Control Tribunal in so far as the order pertaining to Section 14 (1) (h) is concerned. The Rent Control Tribunal vide its order dated 28.3.2007 remanded the case back to the Additional Rent Controller with the directions to determine whether there exists relationship of landlord and tenant between the parties. Against the said order of the Tribunal, the landlord preferred Revision Petition under Article

227 of the Constitution of India. The same was dismissed in *limine.*

The present Revision Petition has been preferred against the order of the Additional Rent Controller whereby eviction has been ordered against the petitioner under Section 14 (1) (e) of the Delhi Rent Control Act, 1958. It is submitted by learned counsel for the petitioner that since the issue whether there exists relationship of landlord and tenant between the parties has been remanded to the Additional Rent Controller by the Rent Control Tribunal against the order passed under Section 14 (1) (h) of the Delhi Rent Control Act, 1958, it would be appropriate if the present revision petition is disposed of with the direction to the Additional Rent Controller to decide the question of relationship of landlord and tenant between the parties.

Learned counsel appearing for the landlord has opposed the prayer. He submits that this Court should itself examine whether the order passed by the Additional Rent Controller is justified or not and that there is no occasion to remand the case back to the Additional Rent Control Tribunal. It is however not disputed by the counsel that the revision petition preferred against the order of the Rent Control Tribunal remanding the case back to the Additional Rent Controller to determine the issue whether there exists relationship of landlord and the tenant was dismissed by this Court.

In the above facts and circumstances, I am of the view that since the common issue arises both in the petition under Sections

14 (1) (e) and 14 (1) (h) of the Delhi Rent Control Act, 1958, it would be appropriate if this revision petition is disposed of with the direction to the Additional Rent Controller to determine the issue of relationship of landlord and tenant between the parties in this case as well. Accordingly, the matter is remanded back to the Additional Rent Controller who shall determine the aforesaid issue along with case under Section 14 (1) (h) of the Delhi Rent Control Act, 1958, which is listed before Ms. Savita Rao, the Additional Rent Controller, Delhi, on 31.1.2008. The Additional Rent Controller will confine the inquiry limited only to relationship of the landlord and the tenant in terms of the directions of the Tribunal.

REKHA SHARMA, J.

NOVEMBER 26, 2007
PC.